



94-395-A

BALTIMORE COUNTY  
OFFICE OF PLANNING AND ZONING  
PHOTOGRAPHIC MAP

PREPARED BY AIR PHOTOGRAPHICS, INC.  
MARTINSBURG, W.V. 25401

SCALE	LOCATION	SHEET
1" = 200' ±	LODGE FOREST	S.E. 7-H
DATE OF PHOTOGRAPHY JANUARY 1986		



94-395-A







IN RE: PETITION FOR VARIANCE  
W/S Headland Avenue, 270' S  
of the c/l of Blevins Avenue  
(2209 Headland Avenue)  
15th Election District  
7th Councilmanic District  
Mercantile Exchange Corp.  
Petitioners

• BEFORE THE  
• DEPUTY ZONING COMMISSIONER  
• OF BALTIMORE COUNTY  
• Case No. 94-395-A  
•

#### FINDINGS OF FACT AND CONCLUSIONS OF LAW

This matter comes before the Deputy Zoning Commissioner as a Petition for Variance for that property known as 2209 Headland Avenue, located in the Lodge Forest area of southeastern Baltimore County. The Petition was filed by the owners of the property, Mercantile Exchange Corporation, by James Gay, President, and the Contract Purchasers, Joseph and Phyllis Benner. The Petitioners seek relief from Section 1801.2.C.1.b of the Baltimore County Zoning Regulations (B.C.Z.R.) to permit front yard setbacks of 15 feet each in lieu of the required 25 feet and a rear yard setback of 25 feet in lieu of the required 30 feet for a proposed dwelling in accordance with Petitioner's Exhibit 1.

Appearing on behalf of the Petition were Joseph and Phyllis Benner, Contract Purchasers. There were no Protestants present.

Testimony revealed that the subject property, known as 2209 Headland Avenue, consists of .31 acres, more or less, zoned D.R. 5.5 and is presently unimproved. This property, also known as Lot 3 of Jessica Terrace, is located within the Chesapeake Bay Critical Areas. Lot 3 is an irregularly shaped rectangular lot located at the end of a panhandle drive off of Headland Avenue. The property is approximately 45 feet in width on the south side, 40 feet on the north side and 175.97 feet across the rear property line. The east (front) side of the property is split by the

panhandle driveway entrance to the site. The irregular shape of the lot and the dimensions of same are more particularly described on the plat submitted into evidence as Petitioner's Exhibit 1. Mr. Benner testified that he and his wife are desirous of developing Lot 3 with a single family dwelling and are in the process of purchasing a 28' x 58' home kit from B4 Lumber. Due to the irregular shape of the lot and the location of the building envelope thereon, the relief requested is necessary in order to build the proposed dwelling.

As noted above, this property is located within the Chesapeake Bay Critical Areas and is subject to compliance with any recommendations made by the Department of Environmental Protection and Resource Management (DEPRM) in accordance with Critical Areas legislation. Therefore, the granting of any relief is contingent upon the Petitioners submitting a findings plan for review and approval by DEPRM and compliance with any recommendations made by DEPRM upon completion of their review.

An area variance may be granted where strict application of the zoning regulations would cause practical difficulty to the Petitioner and his property McLean v. Soley, 270 Md. 208 (1973). To prove practical difficulty for an area variance, the Petitioner must meet the following:

1) whether strict compliance with requirement would unreasonably prevent the use of the property for a permitted purpose or render conformance unnecessarily burdensome;

2) whether the grant would do substantial injustice to applicant as well as other property owners in the district or whether a lesser relaxation than that applied for would give substantial relief; and

3) whether relief can be granted in such fashion that the spirit of the ordinance will be observed and public safety and welfare secured.

ORDER RECEIVED FOR FILING  
Date 5/23/94  
By TMK

- 2 -

Anderson v. Bd. of Appeals, Town of Chesapeake Beach, 22 Md. App. 28 (1974).

It is clear from the testimony that if the variance is granted, such use, as proposed, will not be contrary to the spirit of the B.C.Z.R. and will not result in any injury to the public good.

After due consideration of the testimony and evidence presented, it is clear that practical difficulty or unreasonable hardship will result if the variance is not granted. It has been established that special circumstances or conditions exist that are peculiar to the land or structure which is the subject of this variance request and that the requirements from which the Petitioner seeks relief will unduly restrict the use of the land due to the special conditions unique to this particular parcel. In addition, the variance requested will not cause any injury to the public health, safety or general welfare. Further, the granting of the Petitioner's request is in strict harmony with the spirit and intent of the B.C.Z.R.

Pursuant to the advertisement, posting of the property, and public hearing on this Petition held, and for the reasons given above, the variance requested should be granted.

THEREFORE, IT IS ORDERED by the Deputy Zoning Commissioner for Baltimore County this 23rd day of May, 1994 that the Petition for Variance seeking relief from Section 1801.2.C.1.b of the Baltimore County Zoning Regulations (B.C.Z.R.) to permit front yard setbacks of 15 feet each in lieu of the required 25 feet and a rear yard setback of 25 feet in lieu of the required 30 feet for a proposed dwelling in accordance with Petitioner's Exhibit 1, be and is hereby GRANTED, subject to the following restrictions:

ORDER RECEIVED FOR FILING  
Date 5/23/94  
By TMK

- 3 -

- 1) The Petitioners may apply for their building permit and be granted same upon receipt of this Order; however, Petitioners are hereby made aware that proceeding at this time is at their own risk until such time as the 30-day appellate process from this Order has expired. If, for whatever reason, this Order is reversed, the relief granted herein shall be rescinded.
- 2) Compliance with any recommendations made by DEPRM upon completion of their review of this project.
- 3) When applying for a building permit, the site plan and/or landscaping plan filed must reference this case and set forth and address the restrictions of this Order.

TMK:bjs

Timothy M. Kotroco  
TIMOTHY M. KOTROCO  
Deputy Zoning Commissioner  
for Baltimore County

- 4 -

Baltimore County Government  
Zoning Commissioner  
Office of Planning and Zoning

Suite 113, Courthouse  
400 Washington Avenue  
Towson, MD 21204

May 23, 1994

(410) 887-4386

Mr. & Mrs. Joseph B. Benner  
7859 St. Monica Drive  
Baltimore, Maryland 21222

RE: PETITION FOR VARIANCE  
W/S Headland Avenue, 270' S of the c/l of Blevins Avenue  
(2209 Headland Avenue)  
15th Election District - 7th Councilmanic District  
Mercantile Exchange Corp. - Petitioners  
Case No. 94-395-A

Dear Mr. & Mrs. Benner:

Enclosed please find a copy of the decision rendered in the above-captioned matter. The Petition for Variance has been granted in accordance with the attached Order.

In the event any party finds the decision rendered is unfavorable, any party may file an appeal to the County Board of Appeals within thirty (30) days of the date of this Order. For further information on filing an appeal, please contact the Zoning Administration and Development Management office at 887-1391.

Very truly yours,

Timothy M. Kotroco  
TIMOTHY M. KOTROCO  
Deputy Zoning Commissioner  
for Baltimore County

TMK:bjs

cc: Mr. James Gay, President, Mercantile Exchange Corp.  
7200 North Point Road, Baltimore, Md. 21219

Chesapeake Bay Critical Areas Commission  
45 Calvert Street, 2nd Floor, Annapolis, Md. 21401

LEPRM; People's Counsel; File



## Petition for Variance

To Amend the Final Development Plans of Jessica Terrace  
to the Zoning Commissioner of Baltimore County  
for the property located at 2209 Headland Ave. (lot 3)  
which is presently zoned Residential D.R. 5.5

This Petition shall be filed with the Office of Zoning Administration & Development Management.  
The undersigned, legal owner(s) of the property situate in Baltimore County and which is described in the description and plat attached hereto, made a part hereof, hereby petition for a Variance from Section(s) 1801.2.C.1.b, B.C.Z.R., to  
Permit front yard setbacks of 15' in lieu of the required 25'  
and a rear yard setback of 25' in lieu of the required 30'  
of the Zoning Regulations of Baltimore County, to the Zoning Law of Baltimore County, for the following reasons: (indicate hardship or practical difficulty)

Property is to be posted and advertised as prescribed by Zoning Regulations.  
I, or we, agree to pay expenses of above Variance advertising, posting, etc., upon filing of the petition, and to thereafter agree to and are to be bound by the zoning regulations and restrictions of Baltimore County adopted pursuant to the Zoning Law for Baltimore County.

Contact Purchaser/Lessor: (H) 477-3125 (W) 477-0610

Joseph B. Benner

(Type or Print Name)

Joseph B. Benner

(Type or Print Name)

7859 St. Monica Drive

(Address)

Baltimore, MD 21222

(City and State)

(Zip Code)

Attorney for Petitioner:

(Type or Print Name)

James Gay

(Type or Print Name)

7859 St. Monica Drive

(Address)

Baltimore, MD 21222

(City and State)

(Zip Code)

Printed with Soybean Ink  
on Recycled Paper

ORDER RECEIVED FOR FILING  
Date 5/23/94  
By TMK

(We do solemnly declare and affirm, under the penalties of perjury, that we are the legal owner(s) of the property which is the subject of this Petition.)

(Legal Owner(s))

Mercantile Exchange Corp.

(Type or Print Name)

James Gay - Pres.

(Type or Print Name)

James Gay

(Type or Print Name)

7200 North Point Rd. (410) 477-3800

(Address)

Baltimore, MD 21219

(City and State)

(Zip Code)

Name, Address and phone number of representative to be contacted

Phyllis Benner

(Name)

7859 St. Monica Drive 477-3125

(Address)

(City and State)

(Zip Code)

ESTIMATED LENGTH OF HEARING (unavailable for hearing)

On the following date: Next Two Months

All OTHER

REVIEWED BY: TMK DATE: 4-5-94

381

## EXAMPLE 3 - Zoning Description

- 3 copies

Three copies are required. Copies of deeds cannot be used in place of this description. Use this fill-in format provided whenever possible; otherwise, type or print on 8-1/2" x 11" sheet.

ZONING DESCRIPTION FOR 2209 Headland Ave.

Election District 15th (address) Councilmanic District 7th

Beginning at a point on the West side of

(north, south, east or west)

Headland Ave. which is EX. 45 (Future 50)

(street on which property fronts) (number of feet of right-of-way width)

wide at a distance of 270 feet south of the

(number of feet) (north, south, east or west)

centerline of the nearest improved intersecting street Blevins Ave.

(name of street)

which is EX. 30 wide. \*Being Lot # 3

(number of feet of right-of-way width)

Block       , Section #        in the subdivision of

Jessica Terrace as recorded in Baltimore County Plat

(name of subdivision)

Book #       , Folio # 69, containing

13403 feet 0.21 ac.

(square feet and acres)

\*If your property is not recorded by Plat Book and Folio Number,

then DO NOT attempt to use the lot, block and subdivision

Description as shown, instead state: "As recorded in Deed

Book       , Folio 67" and include the measurements and

directions (metes and bounds only) here and on the plat in the

correct location.

Example of metes and bounds: N.87 12' 13" E. 321.1 ft., S.19

27' 03" E. 87.2 ft., S.62 19' 00" W. 318 ft., and N.08 15'

22" W. 90 ft. to the place of beginning.

7

## CERTIFICATE OF POSTING

ZONING DEPARTMENT OF BALTIMORE COUNTY  
Towson, Maryland

District 15th Date of Posting 4/24/94

Posted for: Notice

Petitioner: Mercantile Exchange Corp. & Joseph B. Benner

Location of property: 2209 Headland Ave. Lot 3, 15th

Location of Sign: Sign ready on property during noon

Remarks:       

Posted by: TMK Date of return: 4/24/94

Number of Signs:       

## CERTIFICATE OF PUBLICATION

TOWSON, MD., April 22 1994

THIS IS TO CERTIFY, that the annexed advertisement was

published in THE JEFFERSONIAN, a weekly newspaper published

in Towson, Baltimore County, Md., once in each of 1 successive

weeks, the first publication appearing on April 21, 1994.

THE JEFFERSONIAN,

A. H. Henshaw

LEGAL AD., TOWSON

### NOTICE OF HEARING

The Zoning Commissioner of Baltimore County, by authority of the Zoning Act and Regulations of Baltimore County, will hold a public hearing on the

property identified herein in Room 106 of the County Office Building, located at 111 W. Chesapeake Avenue, in

Towson, Maryland 21204, on Room 116, Old Courthouse, Towson, Maryland 21204, at

11:00 A.M. on May 17, 1994 at 2:00 P.M.

Case Number: 94-395-A (Item 381)

2209 Headland Avenue, Lot 3

15th Election District, 7th Councilmanic District

Mercantile Exchange Corporation

Joseph B. Benner

2209 Headland Avenue, Lot 3

15th Election District, 7th Councilmanic District

Variances to permit front and rear setbacks of 15 feet in lieu of the required 25 feet to permit a rear yard setback of 25 feet in lieu of the required 30 feet; and to amend the Final Development Plan of Jessica Terrace.

LAWRENCE E. SCHWARTZ, Zoning Commissioner for Baltimore County

NOTES: (1) Hearings are held on Wednesdays for general accommodations. For special accommodations, please call 887-3333.

Don't forget to file an appeal. If you have an appeal, please call 887-3333.

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OFFICE OF PLANNING AND ZONING  
PHOTOGRAPHIC MAP

PREPARED BY AIR PHOTOGRAPHICS, INC.  
MARTINSBURG, W.V. 25401

SCALE	LOCATION	SHEET
1" = 200' ±	LODGE FOREST	S.E. 7-H
DATE OF PHOTOGRAPHY JANUARY 1986		



**Plot to accompany Petition for Zoning** ☒ **Special Hearing**

PROPERTY ADDRESS: 2209 Headland Ave. see pages \* & 6 of the CHECKLIST for additional required information

Subdivision name: Jessica Terrace

plat book# 67 lot# 3 section#

OWNER: Chesapeake Exchange Corp.

**LOT 3**

**North**

**Empty Lot**

**Empty Lot**

**Empty Lot**

**Proposed 16' wide private drive**

**East**

**Empty Lot**

**South**

**10ft Drainage + utility Easement**

**Chesapeake Terrace Elementary School**

**2111/94**

**DATE: 3-16-94**

**PREPARED BY: [Signature]**

**Scale of Drawing: 1" = 50'**

**LOCATION INFORMATION**

Election District: 15th

Councilmanic District: 7th

1"=200' scale map: SE - 7-H

Zoning: DR 55

Lot size: 31 13,403 acreage square feet

SEWER: ☒ public ☐ private

WATER: ☒ ☐

Chesapeake Pay Critical Area: ☒

Prior Zoning Hearings: yes **NONE**

**Zoning Office Used ONLY!**

reviewed by: Jcm ITEM #: 381 CASE#:







IN RE: PETITION FOR VARIANCE  
W/S Headland Avenue, 270' S  
of the c/l of Blevins Avenue  
(2209 Headland Avenue)  
15th Election District  
7th Councilmanic District  
Mercantile Exchange Corp.  
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• BEFORE THE  
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ORDER RECEIVED FOR FILING  
Date 5/24/94  
By TMK

- 2 -

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It is clear from the testimony that if the variance is granted, such use, as proposed, will not be contrary to the spirit of the B.C.Z.R. and will not result in any injury to the public good.

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- 1) The Petitioners may apply for their building permit and be granted same upon receipt of this Order; however, Petitioners are hereby made aware that proceeding at this time is at their own risk until such time as the 30-day appellate process from this Order has expired. If, for whatever reason, this Order is reversed, the relief granted herein shall be rescinded.
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Timothy M. Kotroco  
TIMOTHY M. KOTROCO  
Deputy Zoning Commissioner  
for Baltimore County

TMK:bjs

ORDER RECEIVED FOR FILING  
Date 5/24/94  
By TMK

- 4 -

Baltimore County Government  
Zoning Commissioner  
Office of Planning and Zoning

Suite 113, Courthouse  
400 Washington Avenue  
Towson, MD 21204

May 23, 1994

(410) 887-4386

Mr. & Mrs. Joseph B. Benner  
7859 St. Monica Drive  
Baltimore, Maryland 21222

RE: PETITION FOR VARIANCE  
W/S Headland Avenue, 270' S of the c/l of Blevins Avenue  
(2209 Headland Avenue)  
15th Election District - 7th Councilmanic District  
Mercantile Exchange Corp. - Petitioners  
Case No. 94-395-A

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Very truly yours,

Timothy M. Kotroco

TIMOTHY M. KOTROCO  
Deputy Zoning Commissioner  
for Baltimore County

TMK:bjs

cc: Mr. James Gay, President, Mercantile Exchange Corp.  
7200 North Point Road, Baltimore, Md. 21219

Chesapeake Bay Critical Areas Commission  
45 Calvert Street, 2nd Floor, Annapolis, Md. 21401

LEPRM; People's Counsel; File



## Petition for Variance

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to the Zoning Commissioner of Baltimore County  
for the property located at 2209 Headland Ave. (lot 3)  
which is presently zoned Residential D.R. 5.5

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Permit front yard setbacks of 15' in lieu of the required 25'  
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Property is to be posted and advertised as prescribed by Zoning Regulations.  
I, or we, agree to pay expenses of above Variance advertising, posting, etc., upon filing of the petition, and to thereafter agree to and are to be bound by the zoning regulations and restrictions of Baltimore County adopted pursuant to the Zoning Law for Baltimore County.

Contact Purchaser/Lessor: (H) 477-3125 (W) 477-0610

Joseph B. Benner

(Type or Print Name)

Joseph B. Benner

(Type or Print Name)

7859 St. Monica Drive

(Address)

Baltimore, MD 21222

(City, State, Zip Code)

Attorney for Petitioner:

(Type or Print Name)

James Gay

(Type or Print Name)

7859 St. Monica Drive

(Address)

Baltimore, MD 21222

(City, State, Zip Code)

Signature

(Type or Print Name)

Phyllis Benner

(Type or Print Name)

7859 St. Monica Drive

(Address)

Baltimore, MD 21222

(City, State, Zip Code)

Signature

(Type or Print Name)

Phyllis Benner

(Type or Print Name)

(We do solemnly declare and affirm, under the penalties of perjury, that I/we are the legal owner(s) of the property which is the subject of this Petition.)

Legal Owner(s):

Mercantile Exchange Corp.

(Type or Print Name)

James Gay - Pres.

(Type or Print Name)

James Gay

(Type or Print Name)

Signature

7200 North Point Rd. (410) 477-3800

(Address)

Baltimore, MD 21219

(City, State, Zip Code)

Name, Address and phone number of representative to be contacted

Phyllis Benner

(Name)

7859 St. Monica Drive 477-3125

(Address)

Baltimore, MD 21222

(City, State, Zip Code)

ESTIMATED LENGTH OF HEARING (unavailable for hearing)

On the following date: Next Two Months

All: OTHER

Reviewed by: TMK DATE 4-5-94

381

ORDER RECEIVED FOR FILING  
Date 5/24/94  
By TMK

Printed with Soybean Ink  
on Recycled Paper

## EXAMPLE 3 - Zoning Description

- 3 copies

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Beginning at a point on the West side of

(north, south, east or west)

Headland Ave. which is EX.45 (Future 50)

(street on which property fronts) (number of feet of right-of-way width)

wide at a distance of 270 feet south of the

(number of feet) (north, south, east or west)

centerline of the nearest improved intersecting street Blevins Ave.

(name of street)

which is EX.30 wide. \*Being Lot # 3

(number of feet of right-of-way width)

Block       , Section #        in the subdivision of

Jessica Terrace as recorded in Baltimore County Plat

(name of subdivision)

Book #       , Folio # 69, containing

13403 feet 0.21 ac.

(square feet and acres)

\*If your property is not recorded by Plat Book and Folio Number,

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Description as shown, instead state: "As recorded in Deed

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Example of metes and bounds: N.87 12' 13" E. 321.1 ft., S.19

27' 03" E. 87.2 ft., S.62 19' 00" W. 319 ft., and N.08 15'

22" W. 90 ft. to the place of beginning.

7

## CERTIFICATE OF POSTING

ZONING DEPARTMENT OF BALTIMORE COUNTY  
Towson, Maryland

District 15th Date of Posting 4/24/94

Posted for: Notice

Petitioner: Mercantile Exchange Corp. & Joseph B. Benner

Location of property: 2209 Headland Ave. Lot 3, 15th

Location of Sign: Sign ready on property during noon

Remarks:       

Posted by: TMK Date of return: 4/24/94

Number of Signs:       

## CERTIFICATE OF PUBLICATION

TOWSON, MD., April 22, 1994

THIS IS TO CERTIFY, that the annexed advertisement was

published in THE JEFFERSONIAN, a weekly newspaper published

in Towson, Baltimore County, Md., once in each of 1 successive

weeks, the first publication appearing on April 21, 1994

THE JEFFERSONIAN,

A. H. Henshaw

LEGAL AD., TOWSON

NOTICE OF HEARING  
The Zoning Commissioner of Baltimore County, by authority of the Zoning Act and Regulations of Baltimore County, will hold a public hearing on the property identified herein in Room 104 of the County Office Building, located at 111 W. Calvert Street, Baltimore, Maryland 21202, on the date and time specified below.  
Case Number: 94-395-A (Item 381)  
2209 Headland Avenue, Lot 3  
15th Election District  
7th Councilmanic District  
Mercantile Exchange Corporation  
Joseph B. Benner  
Zoning Hearing  
MAY 17, 1994 at 2:00 p.m.  
1st Ave. 118, 019 Courthouse  
Variances: To permit front and rear setbacks of 15 feet in lieu of the required 25 feet to permit a rear yard setback of 25 feet in lieu of the required 30 feet; and to amend the Final Development Plan of Jessica Terrace.  
LAWRENCE E. SCHWARTZ, Zoning Commissioner for Baltimore County  
NOTES: (1) Hearings are held without recording for general accommodations. Please call 897-3333. (2) For information on submitting the file and hearing, please call 897-3331, 4219 April 21.